UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.96/904
7 September 1998

Original: ENGLISH

EXECUTIVE COMMITTEE OF THE
HIGH COMMISSIONER'S PROGRAMME

Forty-ninth session

ANNUAL THEME

INTERNATIONAL SOLIDARITY AND BURDEN-SHARING IN ALL ITS ASPECTS: NATIONAL, REGIONAL AND INTERNATIONAL RESPONSIBILITIES FOR REFUGEES

I. INTRODUCTION

1. The annual theme for the forty-ninth session of the Executive Committee was agreed at the twelfth meeting of the Standing Committee in June 1998. The Standing Committee requested the High Commissioner to submit to the plenary session a thematic paper which provides a broad framework for discussion. This paper has been prepared in response to that request.

2. The paper lays out the legal and normative basis for international solidarity and burden-sharing in terms of providing protection, assistance and durable solutions for refugee and returnee populations, and in averting future refugee outflows. It describes the various economic, environmental, social, political and security issues involved, and looks at arrangements which have been made in the past for international solidarity and burden-sharing in a number of specific refugee situations. Finally, the paper examines ways of strengthening international solidarity and burden-sharing, focusing on national, regional and international responsibilities, and the need for cooperative partnerships.

II. THE BASIS FOR INTERNATIONAL SOLIDARITY AND BURDEN-SHARING

3. International instruments relating to refugees have continuously stressed the importance of international solidarity and burden-sharing. Paragraph 4 of the Preamble to the 1951 Convention relating to the Status of Refugees expressly acknowledges that "the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international cooperation".

4. At the regional level there has also been repeated recognition of the need for international solidarity and burden-sharing. For example, Article II(4) of the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa states that "where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the OAU, and such other Member States shall in the spirit of African solidarity and international cooperation take appropriate measures to lighten the burden of the Member State granting asylum". A number of recent European Union texts have also referred to the need for international solidarity and burden-sharing, such as the Council Resolution on Burden-Sharing with Regard to the Admission and Residence of Displaced Persons, adopted by the European Union Council of Ministers of Justice and Home Affairs on 25 September 1995.

5. The Executive Committee has also drawn continual attention to international solidarity, responsibility-sharing and burden-sharing as a key to the protection of refugees and resolution of refugee problems. For example, Conclusion No. 22 (XXXII) of 1981 on the Protection of Asylum-Seekers in Situations of Large-Scale Influx points out that "States shall, within the framework of international solidarity and burden-sharing, take all necessary measures to assist, at their request, States which have admitted asylum seekers in large-scale influx situations". Similarly, Conclusion No. 77 (XLVI) of 1995 "[c]alls on States to manifest their international solidarity and burden-sharing with countries of asylum, in particular those with limited resources, both politically and in other tangible ways which reinforce their capacity to maintain generous asylum policies".

6. The wide range of legal and political instruments which stress the importance of international solidarity, responsibility-sharing and burden-sharing on refugee-related issues, illustrates the commitment to cooperative partnerships which exists within the international community in general. There is, however, a need to continue to identify practical ways of achieving or enhancing such partnerships. In principle, international solidarity and burden-sharing should not be seen as a prerequisite for meeting fundamental protection obligations.

III. CONSEQUENCES OF REFUGEE AND RETURNEE MOVEMENTS

7. The international community is becoming increasingly aware of the diverse consequences which refugees and returnees can have on countries of asylum and countries of origin, as well as on other countries within the regions concerned. However, for a number of reasons these consequences are extremely difficult to quantify. Although in some cases refugee and returnee populations have a positive impact, with their presence leading to the economic and social development of marginalized regions, there are often many negative consequences. In dealing with these consequences, there are a number of different national, regional and international responsibilities which need to be met in terms of protection, assistance, solutions and prevention.

8. The impact of refugee and returnee populations is usually mitigated to some extent by international solidarity and burden-sharing. However, it is important to recognize that the primary burden is usually borne by the countries and communities directly concerned. There is increasing recognition of the extent to which large refugee and returnee populations may

impede or jeopardize the development efforts of developing countries. Some of the largest refugee and returnee concentrations are to be found in countries which already suffer from weak economies and poor infrastructure, as well as widespread and chronic poverty. National and regional authorities in these countries are often compelled to divert considerable resources and manpower to deal with issues relating to these populations, detracting from the pressing demands of their own development.

9. The economic impact: the presence of large refugee or returnee populations leads to substantial demands on food, energy, transportation, employment and public services such as education, health and water facilities. Increased public expenditure is often needed to satisfy these demands. Even where the number of refugees is small, the costs of administering asylum procedures can be high. The financial costs should be seen in the context of structural adjustment programmes simultaneously being implemented in some developing countries, and against the backdrop of recession, inflation and unemployment in many of the industrialized countries.

10. The environmental impact: sudden influxes of large refugee populations often lead to serious, uncontrolled environmental imbalances which can affect entire eco-systems, both in areas which are directly affected and beyond. Refugees often create an unexpected and massive demand for scarce natural resources such as land, fuel, water, food and shelter materials, with long-term implications for their sustainable regeneration. The effects of environmental damage often continue to be felt long after refugees leave the affected area.

11. The social and political impact: the presence of refugee or returnee populations often has a significant impact on the socio-political situation in the countries concerned. In particular, where refugees or returnees are from different cultural, ethnic, religious or linguistic groups from the local population, this may create or exacerbate social tensions.

12. The impact on national, regional and international peace and security: the presence of large refugee or returnee populations can have serious implications for internal security, particularly in situations where the ratio of these populations to local people is high. It can also have implications for regional and international peace and security, as recent experience in the Great Lakes region of Africa has shown. The problems of politicization and militarization of refugee camps and settlements are well known. As a result, substantial demands are often put on the police and armed forces of countries of asylum and countries of origin to ensure the security and stability of areas affected by large refugee or returnee populations.

IV. NATIONAL RESPONSIBILITIES IN REFUGEE SITUATIONS

13. Under the terms of international law, primary responsibility for protecting and assisting refugees and returnees lies with the States which are hosting them. This is clearly spelt out in the 1951 Convention and 1967 Protocol relating to the Status of Refugees, the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, and other regional and international instruments relating to the treatment of refugees.

14. While regional or international burden-sharing initiatives may be needed to assist host States in fulfilling their obligations towards refugees and returnees, these should not be seen as in any way diminishing the responsibilities of host countries. Burden-sharing has three distinct aspects: national, regional and international. Regional and international initiatives should support and complement national responsibilities.

15. Even in situations where regional or international actors actively participate in burden-sharing initiatives, there should be full recognition of the heavy burden which is placed on host states, particularly during the initial emergency phase of large-scale influxes of refugees or returnees, or where refugee situations are prolonged.

V. REGIONAL AND INTERNATIONAL APPROACHES TO REFUGEE SITUATIONS

16. While the burden placed on countries by refugee and returnee populations has been borne primarily at the national level, there have been many examples of regional and international burden-sharing. In some cases, specific burden-sharing arrangements have been drawn up, either for situations of mass displacement or for smaller-scale and individual arrivals. Such initiatives have taken place within the well established framework of cooperation and solidarity provided by the international and regional refugee instruments cited above.

17. While some burden-sharing arrangements have been limited to agreements between States in a particular region, there have been a number of comprehensive approaches which have included countries and international organizations from outside the region concerned. Burden-sharing arrangements have ranged from temporary admission of refugees and their resettlement to the harmonization of national asylum procedures. They have also included financial contributions to assistance programmes. In each case, burden-sharing arrangements have been tailored to the specifics of the situation. As the following examples show, they have sought to promote the protection of refugees while at the same time permitting durable solutions to be satisfactorily achieved.

18. The 1981 International Conference on Assistance to Refugees in Africa (ICARA I) and the second conference (ICARA II) convened in 1984, are examples of regionally-focused cooperative approaches aimed at securing extra-regional financial assistance to meet the costs incurred in responding to the presence of large refugee and returnee populations. The Final Declaration of the second conference emphasized that "the condition of refugees is a global responsibility of the international community" and urged "equitable burden-sharing by all its members, taking into consideration particularly the case of the least developed countries". A Steering Committee was set up which was composed of OAU, the United Nations Secretary-General's Office, UNDP and UNHCR. It had some success in raising donor interest in African refugee situations.

19. The Comprehensive Plan of Action (CPA) adopted by the UNHCR-sponsored International Conference on Indochinese Refugees in 1989 represented a major multilateral effort to resolve the Vietnamese refugee problem. It was one of the first examples of a situation where the country of origin became a key player, together with other countries and actors from both within and outside the region, in helping to resolve a major refugee crisis. The Plan of Action

contained provisions for identifying and protecting refugees from Vietnam and the Lao People's Democratic Republic, for averting further out-flows of people not in need of international protection, and for facilitating repatriation of non-refugees. It was a coordinated international response to a situation where countries of first asylum were threatening to close their borders to refugees and where countries outside the region were limiting resettlement opportunities. This was because, over time, the nature of the outflow had changed with many economic migrants being mixed in with refugees.

20. The Plan of Action of the 1989 International Conference on Central American Refugees (CIREFCA) aimed to find durable solutions for over two million refugees and displaced persons in the region. From the beginning, CIREFCA adopted an integrated approach to the political, humanitarian and developmental dimensions of the refugee problem. Much of its success was due to the fact that it was linked closely to the peace process which began with the signing of the Esquipulas II peace agreement in 1987, and the fact that it recognized the need for linking the reintegration of refugees and displaced persons to national development programmes. It included wide-ranging commitments from seven countries in the region, as well as financial support from States outside the region. The United Nations Secretary-General's Office, UNDP and UNHCR all played important roles in ensuring the effective implementation of the plan.

21. In the case of the former Yugoslavia, in July 1992, at the International Meeting on Humanitarian Aid for Victims of the Conflict in the Former Yugoslavia, UNHCR proposed the Comprehensive Response to the Humanitarian Crisis in the former Yugoslavia. This seven point plan was subsequently endorsed by the international community, and became the basis for international action related to refugees and displaced persons from the former Yugoslavia. It provided a framework for international solidarity and burden-sharing on protection, assistance and the promotion of solutions, and it led to the development of the concept of temporary protection.

22. The May 1996 Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States is an important illustration of an expanded approach to burden-sharing. The Conference was convened by the International Organization for Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE) and UNHCR. Going beyond protection and solutions, the Conference adopted a Programme of Action which also embraced pre-departure and prevention-related activities. The Conference began a process of regional cooperation to deal with the problems of the some nine million displaced persons in the former Soviet Union and, at the same time, to respond to the threat of future mass displacements.

23. Other more recent examples of international burden-sharing have been based on promoting regional dialogue to improve cooperation on refugee issues. The CASWAME Regional Consultation process, initiated by UNHCR, involves some fourteen countries from Central Asia, South West Asia and the Middle East. Since the process began in March 1997, the CASWAME Consultations have adopted a number of proposals to enhance regional co-operation and coordination in relation to refugee movements. Also, the Asia-Pacific Intergovernmental Consultations on Regional Approaches to Refugees and Displaced Persons (APC) involves some seventeen countries working in

close association with IOM and UNHCR to share information on various initiatives with regard to population movements in the Asia-Pacific region.

24. Apart from large influx situations, there have also recently been some interesting examples of burden-sharing arrangements for smaller-scale and individual arrivals. Following the unprecedented number of individual arrivals of asylum-seekers into European countries in the late 1980s and early 1990s, States in Europe felt compelled to find ways to distribute the asylum burden more equitably among themselves. One result was the Schengen/Dublin approach of apportioning responsibilities for determining asylum requests, regardless of country of application, on the basis mainly of who authorized entry into the region. While UNHCR did not initiate this process, the High Commissioner's Office has worked closely with the countries involved to ensure that basic protection principles are respected. Discussions are currently underway among European Union member States for further developing the concept of burden-sharing in case of mass flows in Europe.

VI. STRENGTHENING INTERNATIONAL SOLIDARITY AND BURDEN-SHARING

25. A general commitment to burden-sharing already exists within the international community, and this underpins all of UNHCR's work. However, serious efforts are now being made to learn lessons from past experiences of formal burden-sharing arrangements for specific refugee or returnee situations. While it may not be practical or possible at this stage to establish a formal and permanent burden-sharing system on a global level, there is agreement that efforts should be made to strengthen international solidarity and burden-sharing in general. In this context, there are four main issues which need to be addressed, all of which have important policy implications for States, UNHCR, and other national, regional and international actors:

- Why is burden-sharing necessary?
- What needs and responsibilities may be met through burden-sharing?
- Who should participate in burden-sharing?
- To what extent should burden-sharing be systematized?

26. Why is burden-sharing necessary? Particular regions and States continue to host very large numbers of refugees, despite enormous political, economic, environmental and social problems. By addressing some of the political, financial and other costs of hosting refugees or rehabilitating returnees, burden-sharing mechanisms can encourage Governments to meet their obligations under international refugee law and human rights law, while promoting the protection of refugees and solution of refugee problems.

27. What needs and responsibilities may be met through burden-sharing? Burden-sharing should help to ensure respect for the basic principles of refugee protection, including asylum, *non-refoulement* and family unity, and should promote lasting solutions to refugee problems. Any arrangement on burden-sharing based on "quotas" for receiving refugees or asylum-seekers should be flexible enough to accommodate family unity and other humanitarian considerations. Where asylum in the region is considered as an element of

burden-sharing, due consideration should be given to the lack of capacity of countries neighbouring the country of origin to absorb refugees, and to the need for regular consultations with neighbouring countries most affected by the exodus in order to assess and respond to their assistance requirements.

28. Comprehensive approaches to burden-sharing can cover issues beyond protection, assistance and durable solutions for refugees and returnees. It may take into account the economic, environmental, social, political and security implications which refugee and returnee populations have on host and home countries. Programmes aimed at assisting and protecting refugee and returnee populations could be linked to political processes, development and environmental programmes, and peace-keeping and peace-building activities, including reconciliation, rehabilitation, reconstruction and reintegration projects. Burden-sharing may include political or security action aimed at addressing the causes and consequences of refugee movements.

29. Who should participate in burden-sharing? Past experience shows that in situations of mass influx, the most successful burden-sharing arrangements are those which are not limited exclusively to countries from the region. In the case of individual arrivals, regional burden-sharing arrangements such as those recently established by the European Union may be useful. However, there is a danger that regional burden-sharing arrangements may lead to the creation of blocs, each with their own distinctive refugee regimes. This may result in an inequitable sharing of responsibility, with burden 'shifting' from one region to another, rather than resulting in greater harmonization of practices and procedures relating to the protection and assistance of refugees and returnees at the global level.

30. While bilateral agreements and other specific arrangements may be made amongst a limited number of actors, all burden-sharing arrangements should be carried out in the context of national, regional and international responsibilities for refugees. Any regional burden-sharing arrangements should be complementary to, not at the expense of, global burden-sharing efforts, such as contributing to UNHCR programmes and providing for resettlement of refugees. Participation by international organizations should not be limited to those with mandates relating specifically to refugees, or those concerned only with the emergency phase. Because of the wider implications of refugee situations, burden-sharing arrangements should encourage the involvement of human rights, political, peace-keeping and development organizations as and where appropriate.

31. To what extent should burden-sharing be systematized? The purpose of establishing a more systematized burden-sharing mechanism would be to enable participating States to respond in a more efficient, equitable and consistent way to refugee and returnee situations. Until now, formal burden-sharing arrangements for specific refugee or returnee situations have been implemented on an ad hoc basis. One of the main strengths of the ad hoc arrangements which have been made in the past is the fact that they have been rooted in the established framework of international burden-sharing, but have also been specifically tailored to particular situations. This has allowed for a substantial degree of flexibility. Any further systematization at the global level should ensure that the necessary flexibility is not lost.